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ABSTRACT

This paper is a synthesis of available documents, surviving files and personal interviews pertaining to the history of the Federal Interagency Day Care Requirements (FIDCR). The general outlines of what took place, the principal issues and viewpoints involved and the interplay among these issues are described. Also included are: accounts of the development of the legislative mandate for the FIDCR; the actual development of the standards and mechanisms for coordination of day care programs mandated by the 1967 amendments; analysis and reformation of state licensing codes; the 1972 revisions of the FIDCR; and enactment of Title XX (pertaining to the Social Security Act, 1974). (CM)

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HISTORY

OF

THE FEDERAL INTERAGENCY DAY CARE REQUIREMENTS

August 9, 1976

By

Sara Pope Cooper

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Author's Intoductory Note

In the process of reconstructing the orgins and evolution of the Federal Interagency Day Care Requirements it was found that very few formal records remain from what was by all accounts an exceptionally fast paced and turbulent era. Accordingly it became necessary to rely to an unusual degree on the recollections of those involved — recollections which are not always complete or perfectly compatable one with another. The following paper is thus a synthesis of available documents, surviving files, and personal interviews.

Introduction

In view of the special importance Americans have traditionally attached to children and the nation's long-standing belief that parents in particular but also society in general should build and sacrifice for the good of future generations, one might expect day care to be as uncontroversial as apple pie. And it might also seem logical to assume that there would be no question about the need to create and enforce standards guaranteeing the quality of such care. Yet neither of these assumptions would be correct. Day care in the United States has been the subject of persistent, sometimes bitter dispute for more than 100 years. It has been recognized since the early 19th Century, at least, that the industrial revolution and the the attendant commercial system posed special problems as well as special opportunities for families and children — particularly the poor and disadvantaged. Only gradually, however, has it become clear that mothers who work outside the home and thus need help in caring for their children have been pulling government officials, child development specialists, educators, and others into a briar patch of controversy over conflicting national values and difficult social policy questions.

What for example, does American society see as the proper role of women and mothers? What is and is not deemed crucial in child development? Where the poor are concerned, how is society to reconcile its belief in the work ethic with its equally deep conviction that children are best reared by their mothers in their own homes? Is day care only an auxiliary tool for dealing with adult employment problems or is it also a device for improving the lives and prospects of children for their own sake? Where does the duty of parents end and the responsi-

bility of government begin? In dealing with a subject so intimately involved with personal values and convictions, how can minimum standards be agreed upon and what administrative and enforcement mechanisms would be most appropriate? And whatever the philosophical conclusions, how are costs and responsibilities to be balanced and apportioned?

Struggling with these and a host of related problems, the nation has been confronted with a procession of vexing policy choices. Its decisions, as often happens, have been faltering, confused, and occasionally in apparent contradiction of one another. Over time, however, the broad outlines of a national policy have slowly emerged. Adoption of the Federal Interagency Day Care Requirements in 1968, along with the series of related developments before and afterward, mark a significant stage in the development of that policy. While they may be imprecise on many points and far from definitive, the FIDCR and subsequent legislation represent a giant step toward formal acceptance of the working mother as a social norm, one that society in some circumstances may even wish to promote. Also, there is a clear implication that the entire nation has an interest in the well-being of all children; and that the government, through establishment of appropriate standards, can promote and ultimately insist on the development of day care programs that not only keep children safe, happy and healthy but also contribute to their educational and social growth.

It is a truism that real government does not function with the logical, methodical exactness of civics book government. And in the seamless web of history it is seldom possible to determine with absolute

precision why particular events occurred. This seems especially true of the era in which the FIDCR, its legislative mandate, and some of the surrounding events occurred. It was a time of especially rapid change and turbulence; government officials and other participants in the drama acted on the basis of what they considered adequate knowledge and reflection - or at least the best information and most careful consideration that circumstances seemed to permit; detailed records documenting the basis for decisions, or the circumstances in which they occurred, were not always kept. This paper, based on available records and interviews with leading participants, their aides, and others with relevant knowledge, is an attempt to trace at least the general outlines of what took place, to identify the principle issues and viewpoints that existed, and to describe the interplay among them.

History and Background

Whatever the complexities that were to emerge later, it all seemed simple enough in 1828 when a group of Bostonians sat down to draft a constitution for what they called an Infant School. Women, many of them poor, were beginning to work in New England's shops and mills. This posed a direct threat to the welfare of countless children, but it appeared to the practical Bostonians that the impulse of such women to work outside the home might, if properly supported, be turned to good account for all concerned. Discussing what may have been the first proposal for a day care center in the United States, the Boston citizens wrote that "such a school would be of eminent service, both to the parents and children. By relieving mothers of a part of their domestic cares, it would enable

them to seek employment," and the entire family would presumably benefit from the resulting income. Also, foreshadowing the views of some modern specialists, the Infant School's designers noted that temporarily at least the children of the poor "would be removed from the unhappy association of want and vice, and be placed under better influences..." [1]

Like the designers of the Boston Infant School, the men and women who founded the thousands of day nurseries that sprang up during the remainder of the 19th and early 20th Centuries were responding to the highly visible consequences of industrialization, urbanization and immigration. The concern was for providing safe, clean, decent care for children endangered by a society that seemed rapidly to be abandoning its simple agrarian past and the tight circle of hearth, home and motherhood that had been at its center. If day nurseries could protect children while their mothers sought to earn needed outside income, that seemed justification enough to most of those involved in early nursery centers; if a little education or other beneficial training could be added, so much the better.

While the day nursery movement had gained considerable strength under private and philanthropic sponsorship by the turn of the century, it had begun to develop its critics. For one thing, the enormous disparities in the quality of care had stimulated the beginning of the push for improvement, for some means of protecting children against actual or potential harm -- the embryo of the movement for government standards. Far more powerful was the opposition at the opposite pole, the resistance to day care among those who saw it as a threat to family ties and antithetical to what they thought should be the American norm: a mother at home caring for her own children. The need for day care, in this view,

was evidence of pathology in the family. The service should be strictly limited to those with severe problems or those temporarily in need of special help. Beyond this belief that widespread day care was incompatible with traditional American values, there was practical opposition based on fear that if more women were able to seek outside work they would compete with men for jobs and might drive down wages for all.

Complicating the picture further was the growth of the kindergarten movement in the 19th Century, grounded on the work of Fredrich Froebel and suggesting that, questions of poverty, welfare and pathology aside, children might actually benefit from certain kinds if preschool social experience and training outside the home. If such training were good for children of the relatively affluent families that initially supported it, some child development specialists would eventually ask, might it not benefit the less fortunate even more? The work of Maria Montessori with impoverished children in Italy would be cited by some as evidence that the answer is yes.

It is these currents and cross currents, mingling with the ebb and flow of changing circumstances, that have created the context of the modern day care issue and, more specifically, the continuing debate over standards. It has been a history of initiatives taken and then challenged, of private and public efforts begun and later thwarted. Through it all, however, the dominant sweep of events has impelled more and more women into the nation's work force; the de facto power of this new reality has slowly overwhelmed - or mooted - many of the objections to day care and intensified the perception that quality standards are needed.

Certainly the federal government's initial sallies into provision of day care were based on practical and immediate realities rather than on

any settled convictions about underlying theoretical arguments. The first venture came in 1933, when support of day care was authorized in connection with the Works Project Adiminstration during the Depression.[2] Day care then was envisioned primarily as a device for creating jobs for otherwise unemployed teachers, nurses, nutritionists, and related personnel; the centers were often run in conjunction with public schools or Social Agencies.

The WPA program florished through the remainder of the 1930's, but by 1942 improvements in the nation's economy had reduced the number of families eligible to use the centers and enrollment had dwindled sharply. If it had originated as an emergency effort to help one segment of the unemployed, the program had encountered a sustained demand for its care services and thus had developed a base of public support far broader than would have developed merely for a narrow job creation program -- a base reflecting the magnitude of the unmet need for day care in a society that was changing faster than its leaders seemed to recognize.

This lag in perception was visible also in the federal government's second venture into the day care field by way of the Lanham Act of 1941. As a matter of practical fact, many of the centers supported under the Lanham Act were slightly altered extensions of the WPA units, but Washington's rationale had to do with neither creation of jobs nor the provision of day care as a normal service of government. Formally titled the "Community Facilities Act", the Lanham measure was another piece of emergency legislation — part if the U.S. mobilization effort for World War II. The rapid buildup of the Armed Forces siphoned tens of thousands of men out of the nation's work force and day care became necessary to enable

women to replace men in vital industries. In 1942 the Lanham Act was interpruted to allow federal funding of child care centers. By the War's end more than one million children were being cared for in various programs but few of the Lanham centers survived when Congress declined to continue federal funding in peacetime.[3] It was apparently assumed that with the Depression and the war behind it, the United States would return to what had been considered the normal pattern: men working outside the home, women working in it; as a matter of fact the number of women in the labor force did decline slightly in the late 1940's and early 1950's, but by 1955 the number of working women stood at almost 20.6 million - more than 30 percent of the total U.S. labor force and more than one million above the wartime peak. The trend line has been moving steadily upward ever since, both in total numbers of women employed outside the home and as a percentage of the nation's work force.[4] The full implications of this phenomenon so far as day care is concerned were not recognized by the government for some years, however.

While the emphasis in both the 1933 and 1942 programs was on solving adult employment problems, there were undercurrents of direct service to children in both. As has been suggested, there were substantial health and educational elements in the WPA day care centers, and many of these features were continued in the programs that followed in World War II.

Beginning with the amendments to the Social Security Act approved in 1962, however the duality of the federal government's role became more nearly explicit. The amendments, authorizing financial support for day care, reflected and blended two distinct streams of thought and purpose: first, that day care should be provided in response to a broad social need springing from new realities in American life, and second, that day care

was a necessary supportive service for adults seeking to escape the cycle of poverty. The amendments earmarked day care funds as a part of child welfare services program, which traditionally had sought to serve all children in need without defining need strictly in terms of poverty. At the same time, the amendments specified that in establishing criteria for need, planners should give priority to "members of low income or other groups in the population" -- a stipulation apparently growing out of the concern of President John F. Kennedy and others with both the rising cost of welfare and the grim effects of sustained poverty on its victims. In blending the twin ideas of day care as a broad social service and as an instrument for fighting poverty, the 1962 amendments foreshadowed much that has followed, including some of the confusion, conflict, and crossed-purposes. The amendments called for state formulation of day care plans, cooperation between state agencies to provide "necessary health services and education" for children in day care, and establishment of state advisory committees. Highly significant in the present history there was also a requirement that care provided under the child welfare services plans must occur in facilities meeting state licensing standards -- the first explicit federal effort to require minimum standards for day care; according to some estimates, more than 40 percent of the funds appropriated for these day care programs was actually spent on such licensing efforts.[5] In terms of numbers of children served, the impact of the 1962 amendments was small and day care legislation in 1964, tied more directly to the war on poverty, was similarly limited. Yet both were significant elements in the background of the FIDCR.

Development of the Mandate

The legislative mandate for the FIDCR, and the executive branch decisions that ran parallel with Congressional action, sprang from a coalescing of overlapping interests, contending political forces, and developing ideas among child care specialists - some of these rooted in the history of government involvement with day care and some unique to the 1967-1968 period. Government officials, Congressional leaders, advocacy groups, and a number of outside experts played significant roles.

There was, to begin with, the long-established body of child care specialists both in and out of government who had believed in and worked for development of day care programs over a period of many years. Among these authorities, there had grown up a conviction that standards of some sort would be necessary to assure quality care for children everywhere. This group and its belief in standards could be compared to a small tree growing in arid land that suddenly begins to receive a great deal of nourishing rain.

In declaring a "War on Poverty", President Lyndon Johnson had greatly expanded and elaborated the Kennedy Administration's efforts to break the cycle of hard-core, multi-generated poverty. Intensified day care programs were implicit in the Johnson Administration's emphasis on job training and increased employment for the poor. In part, this was only an extension of the long-developing idea that the best way to aid poor people was to help them get jobs and let the resulting income attack the symptoms of poverty; in this context, day care was once again seen as an instrument of adult employment policy - an auxiliary service to be provided as efficiently and inexpensively as was decently possible. Another

provided as efficiently and inexpensively as was decently possible. Another element was present, however. As evidenced by the Head Start programs launched under the 1964 Economic Opportunity Act, there was widespread political and professional support for the idea that supportive, compensatory and remedial aid should be given to children for their own sake. In many cases, it was argued, federal intervention might come too late for adults, but it could change the prospects for children.

If advocacy groups, many child care specialists, and their supporters in Congress and the Johnson Administration saw great possibilities in such efforts, others in Congress and elsewhere were increasingly concerned about the burden imposed on taxpayers by the rising cost of welfare and about the impact on expanded social programs on the federal budget. Some suggested, for example, that the United States could not afford a war on poverty and a war in Vietnam simultaneously. Also, there was considerable feeling among both Republicans and Democrats that the government had moved too far too fast, that its myriad anti-poverty programs were plagued by loose administration and lack of coordination. In its report on a Senate version of the bill that was to become the 1967 amendments to the Economic Opportunities Act, the Senate Labor and Public Welfare committee, which of course was dominated by Democrats, declared that "one of the major unsolved problems of the poverty program is the lack of sufficient coordination among the wide variety of programs which serve the poor."[6]

The Johnson Administration responded by seeking to strengthen the basic programs as much as possible, but it also bowed to some of the critics by supporting efforts to tighten and streamline operation of

some of the anti-poverty programs. In the process of responding thus, the Administration was of course bringing itself into a position parallel with that of child care specialists who favored uniform standards or guidelines of day care.

Beyond these considerations, it is clear that the actions of some officials in the Johnson Administration were influenced by their growing alarm at the way controversy over the Vietnam War was eroding the President's political base and thus endangering his domestic initiatives. These officials were interested in finding ways to protect what they considered important programs in the potentially less sympathetic climate of a future administration.

The legislation containing the mandate for the FIDCR reflects most of these concerns. Designated Public Law 90-222 and signed by President Johnson on December 23, 1967, the legislation was a set of amendments to the Economic Opportunity Act, which had been the principal vehicle of the war on poverty. Included was an amendment to Title V adding a section which authorized federal financial support for day care for "children from families which need such assistance to become or remain self-sufficient or otherwise to obtain objectives related to the purpose of this Act, with particular emphasis upon enabling the parents or relatives of such children to choose to undertake or to continue basic education, vocational training, or gainful employment."[7]

The amendments had been passed by the Senate on December 8, 1967 and the House on December 11. It is indicative of the way domestic policies were becoming entwined with foreign policy problems that President Johnson signed the bill as he flew back from a visit to Cam Ranh Bay, South Vietnam.

The day care provisions were a relatively small, not overly prominent element in the massive bill, which encompassed job training, the controversial community action programs, aid to migrant workers, special programs for impoverished areas of the cities, and a host of related matters. The place of Title V in the formal legislative history is not large, but the text of the provisions themselves and interviews with some of those involved make clear what Congress had in mind.

Along with its clear indication that day care was to be a tool for increasing adult employment and thus reducing welfare costs, Title V as amended specified that federally funded day care centers were to provide "health, education, social, and such other supportive services as may be needed."[8] Also, it specified that in approving applications for federal funds the Director of the Office of Economic Opportunity should weigh not only the degree to which jobs would be provided for the unemployed, those with low incomes, or persons on welfare, but also the degree to which an applicant planned for coordination and cooperation with other day care programs in the applicant's area. More specifically on this latter point, Title V contained the following directive:

> The Director (of OEO) and the Secretary of Health, Education and Welfare shall take all necessary steps to coordinate programs under their jurisdictions which provide day care, with a view to establishing, insofar as possible, a common set of program standards and regulations, and mechanisms for coordination at the State and local levels.[9]

This provision provides the specific legislative mandate for the FIDCR, which were meant to reflect the three primary elements of Congressional concern: provision of broad-gauge supportive services for the children of poor and disadvantaged families, stimulation of employment and job

training among low-income or unemployed persons with a view toward breaking the poverty cycle and reducing welfare costs, and encouraging sound well-coordinated administration of the program.

It should be emphasized that, while Congressional action on the 1967 amendments was a direct result of a major legislative effort by the Johnson Administration and its allies in Congress, both the nature of the effort and its success owed much to a body of research and vigorously articulated opinion that had developed both inside and outside the government during this period. The burden of the research, and the arguments by advocacy groups based on it, was this: More and more women were working outside the home - consistent or inconsistent as that might be with some traditional American values - and more and more children were receiving day care; much of that care was informally arranged, a great deal of it was haphazard, and some of it was demonstrably bad for the children involved; thus, it was argued, the government should move more actively into the day care field, not only as a sponsor of care, but as a assurer of quality through standards. In doing so, advocates said, the government should view day care not merely as a service to working mothers, but as a potentially valuable avenue for delivering a wide array of health, educational, and social services to needful children - and not only to the most straited children of the poor.

As early as 1958, a survey by the Children's Bureau of the Department of Health, Education and Welfare had begun to paint a statistically detailed picture of the realities of day care in the United States. A second study in 1965, financed by the Children's Bureau and the Women's Bureau of the Department of Labor, showed that the percentage of children of working mothers cared for outside the children's own home was beginning to increase - a trend that would show substantital growth by 1970, even though in-home arrangements continued to predominate. Work by the Child Welfare League culminated in a detailed study of child care arrangements

in six cities and one rural community. The National Committee for Day Care was also among those investigating the problem. The resulting information, and advocacy based on it, contributed to support for greater government activity, both to stimulate greater availability of care and to assure at least minimum standards of quality.

Adding to the arguments of the advocacy groups and the Johnson Administration was the self-evident fact that, through diverse by-ways and side doors, a surprising variety of federal agencies had marched or wandered into the day care field. The Elementary and Secondary Education Act of 1965, for example, provided support for day care through the DHEW. There was also the Vocational Education Act of 1963 along with the Education Profession Development Act and the Manpower Training and Development Act. As a result of the Economic Opportunity Act the Office of Economic Opportunity clearly seemed to have one foot in the child care business with the Head Start program. But there were other, less obvious agencies: The Women's Bureau in the Labor Department had a long history of concern for day care; the Department of Housing and Urban Development included day care in the Model Cities program, the Department of Argiculture was involved through its surplus food program, and there were others; even the Department of Defense had child care centers on military bases, though these facilities were and continue to be privately funded, and thus apparently subject to neither state nor federal standards. The need for coordination was apparent, even if considerable uncertainty and disagreement remained over who should do the coordinating, how it was to be managed, and what sort of day care system the coordinators should seek to develop.

Thus the mandate for the FIDCR, like most legislation, was the result of a complex set of interactions involving Congress, the Administration,

the advocacy groups, and others interested in the issue. And, as is equally normal in such situations, the activities of the executive and legislative branches took place concurrently, not in sequence. That is, officials in the OEO and the DHEW did not wait for Congress to finish action on the legislative mandate before getting to work themselves. Jule Sugarman, who was to play a major role in the drafting of the FIDCR in his capacity as associate chief of the Children's Bureau, recalls that discussions of the need for coordination and standards for the federal government's scattered day care efforts had taken place with Wilbur Cohen, then Under Secretary of the DHEW, and Harold Howe, then head of the Office of Education, well before the mandate was approved in late 1967.[10] Sugarman, who was director of Head Start at OEO when he took part in these discussions, remembers that the need for coordination and uniform standards was considered so pressing within the Administration that it would have sought to move forward under existing executive branch authority if Congress had not provided a specific mandate.

Developing the FIDCR

At the initiative of the Secretary of HEW, supported by OEO, a special interdepartmental and interagency panel, together with a staff group from HEW, OEO, and the Labor Department, was created in the spring of 1968 to develop the standards and mechanisms for coordination of day care programs mandated by the 1967 amendments. Membership on the committee was intended to reflect the full range of federal involvement with day care and the individuals chosen from the various agencies were picked for their direct involvement with the problem. Called the Federal Panel on Early Childhood, it consisted of representatives from the following

departments and agencies:

Department of Agriculture
Department of Housing and Urban Development
Department of Labor
- Women's Bureau
- Manpower Administration
Office of Economic Opportunity
Department of Health, Education and Welfare
- Assistant Secretary for Health and Scientific Affairs
- Office of Child Development
- Health Services and Mental Health Administration
- National Institutes of Health
- Office of Education
- Social and Rehabilitation Service

The Department of Defense also took part in the panel's deliberations, at least at the beginning, according to some participants, but it did not sign off on the final standards and apparently was not considered a formal member of the group.

The panel and its subcommittee were responsible for development of the FIDCR, but several months before the group was assembled, according to many of those involved, there had occurred a bureaucratic reorganization involving Head Start which was to have a profound influence on the standard setting process.

Late in 1967 Sugarman and others at OEO had become convinced that Head Start soon would be shifted from the independent anti-poverty agency to DHEW. In part this was because from the beginning Sargent Shriver, OEO's first director, and others had felt that instead of becoming another addition to the vast federal bureaucracy, OEO should test and develop innovative ideas, then spin them off to the established line agencies; also, in the increasingly acrid political climate of the time, critics of the war on poverty were concentrating their fire on the sometimes unconventional OEO and were demanding that older agencies be given administrative responsiblity for its programs. Faced with what

they considerd the inevitable, Sugarman says, OEO officals decided that Head Start would find a more congenial home in DHEW's Children's Bureau than in the Office of Education, which was the likely alternative. Accordingly, Sugarman met with Cohen and arranged for the transfer of Head Start to the Children's Bureau. Sugarman was appointed associate chief of the U.S. Children's Bureau in April of 1968. As a result of this reorganization, Sugarman and other Head Start officials, who had been responsible for developing what was in some ways the most elaborate and successful adventure in child care and development by the federal government up to that point, were ideally positioned to play major roles in the standards setting process.

When they arrived at DHEW, Sugarman says, he and his staff found Secretary Cohen impatient with the amount of progress that had been made in developing day care standards during the four months since Congress had approved the FIDCR mandate. According to members of the technical staffs at the Children's Bureau, OEO, and the Labor Department, substantial work on possible standards had in fact been done at the staff level before Sugarman arrived, and this preparation enabled a final draft of the FIDCR to be put together with exceptional speed. To begin this push for completion, it was decided in a meeting with the Secretary that an interdepartmental committee which was to become the Federal Panel on Early Childhood should be assembled to begin work at the policy level, with Sugarman having primary responsiblity for supervising this process. Since the legislation mandating the FIDCR had also authorized a substantial increase in the federal government's already mushrooming day care effort, Sugarman and his staff set to work with a feeling of considerable urgency. Preston Bruce, than Sugarman's executive assistant and now on the staff of the Day Care Services Division of the Office of Child Development, remembers the atmosphere this way:

"There were so many things happening. We were trying to coordinate all the efforts to take care of children, trying to fill the cracks. We were working 24 hour days . . . trying to keep youngsters from falling through the cracks."[11] With great speed the roster of agencies to be invited to participate was drawn up, along with a list of individuals who were to be sought as the agencies' representatives. In a suprisingly short time the Federal Panel on Early Childhood was a functioning reality. Of the subcommittees that were appointed, the all-important unit responsible for submitting draft standards was headed by Bruce.

Technical staff from the Children's Bureau, OEO, and the Labor Department was active in the drafting, of course, but Sugarman was to play a direct role in the writing process himself.

Theoretically, members of the panel representated substantially different perspectives on day care and sharp disagreements on standards might have been expected. The Children's Bureau had long advocated comprehensive or "quality" day care and the Head Start veterans were also convinced that a wide range of compensatory, remedial and supportive services for children should be required. The Department of Labor, on the other hand, had divided interests. The Women's Bureau was strongly concerned about establishing high standards; the goal of the Manpower Training program, however, was to get as many people as possible off welfare and into the ranks of the employed with as little delay as possible; standards requiring day care centers to provide costly supportive services would tend to work against maximizing manpower training by reducing the number of children who could be cared for on a given appropriation. Also, the President's Bureau of the Budget, which had input into the panel's deliberations even though it was not formally

part of the group, generally opposed requirements that tended to raise the cost of day care. And the Department of Agriculture regarded involvement with school lunch and other food distribution programs as only incidential to its central responsibilities. As it happened, these and other differences in perspective did emerge during the panel's deliberations, but participants agree that discussions were seldom strident and that a strong consensus was reached on most points with remarkable ease.

One reason for this near-unanimity was the fact that the Women's Bureau of the Labor Department, whose representatives on the panel played an active role in the deliberations, was a bastion of support for quality day care. Headed by Mary Keyserling, who was later to direct the influential study of day care for the National Council of Jewish Women, the Women's Bureau "was the prime advocate in government for day care," says Sugarman. "They were solid."

Several points should be borne in mind if one is to understand the attitudes, assumptions, existing circumstances, and other elements that shaped the FIDCR. To begin with, in addition to the pervasive sense of urgency, the drafters had to work without the aid of any system for monitoring or scientifically testing day care methods then in use or proposed for adoption in the FIDCR. "We used the best thinking available and went ahead," Bruce recalls. The panel members and their aides were, after all, among the most experienced people in the country so far as day care was concerned and many were well grounded in the relevant history and research. As Bruce describes it:

"Each member or group of members brought with them the specific legislative base that their individual program operated from. We all

sat down together and went through the legislation point by point. The standards just evolved that way. There were already some standards: The Child Welfare League, Head Start had standards, the 1962 Social Security Amendments. The standards that we came up with were very similar to Head Start."

In addition, although the FIDCR as finally approved represents legally binding and mandatory standards, Sugarman says that he and at least some others involved in the drafting regarded the provisions as goal standards to be worked toward by the providers of day care, not as rigid rules comparable to highway traffic laws. Provisions of the FIDCR would be modified and adapted by federal administrators as time and experience demanded, it was assumed. This attitude is reflected in the deliberate lack of specificity found in some of the language of the FIDCR. A source of later complaint and criticism, some of the wording in the standards was deliberately made vague, according to Sugarman and others. This was considered necessary to permit flexibility of interpretation. It was not thought practicable or desirable to attempt to write iron-clad requirements for a program that would operate under widely different circumstances in different parts of the country and serve significantly diverse populations of children and parents.

While relatively little research and scientific testing on standards was available to aid the panel, it took advantage of the experience and the work already done by the agencies it represented. Most had done little with standards, but there was considerable experience of various sorts in administration of day care programs and Head Start had actually already been in the process of developing standards for its programs. The Head Start work was highly influential on the panel's eventual decisions.

In addition, there was input from several advocacy groups. The Child Welfare League was then in the process of revising its own model code of day care standards and this work was considered by the panel. As participants remember it, the advocacy groups had little or no direct role in the panel's formal deliberations, but the groups had significant input on an informal basis at the drafting stage. The Child Welfare League seems particularly to have been consulted and it argued frequently for higher standards. Further, the League, the National Committee on Day Care, and other such groups had substantially influenced the general perception of need for day care at that time, as well as opinions on what such care should consist of and what government's role in assuring standards of quality should be.

In an intensive series of meetings during the spring and early summer of 1968 members of the FIDCR panel and its subcommittees considered standards on many facets of day care, but five aspects were particularly significant: Child-staff ratios, parent participation, mental and physical health services, delivery mechanisms and costs.

The question of staffing ratios was recognized from the beginning as one with extremely serious implications, both for the quality of care and for costs. To help children overcome the handicaps of poverty and related conditions, intensive staffing was considered critical. It was axiomatic that children with serious problems would need a great deal of individual attention if they were to benefit from the programs. If day care was to play the desired role in reducing unemployment and welfare costs, on the other hand, intensive staffing requirements could present a problem: costs could be raised, reducing the number of children who would be covered by a given level of federal spending and perhaps even

pricing some children who were not eligible for federal support out of local day care centers entirely. Debate on the needs and trade-offs involved in these issues was extensive, according to participants.

Examining staff ratio requirments existing in the states at the time, the FIDCR drafters found great variety. Some states had no staffing requirements. Others, such as New York, had what were considered extremely high requirements. Clearly, the issue could not be resolved by averaging or some similar compromise technique based on state systems.

According to Sugarman, who says he personally made the final decisions reflected in the first draft of the FIDCR, "Staffing was a matter of judgement. It was not scientific . We took a reasoned approach after a lot of talking." The final ratios were consistent with the implications of existing research on the subject, he says, and reflected the best judgement tempered by fiscal realities. "Nothing later convinced me that anybody had more correct judgement", Sugarman says. It is significant in understanding the original staffing ratios, he emphasizes, that drafters of the FIDCR staffing requirements did not envision that all of the required workers would be paid professionals.

The assumption was that approximately two volunteers would be used for each paid staff member, according to Sugarman. This assumption, which was to be substantially disappointed by events, reflects the philosophy of the Head Start program, as well as the faith - widespread at the time - that community enthusiasm for day care and similar programs would be translated into a dependable supply of suitable volunteers. The scope of the role of contemplated for volunteers in meeting FIDCR staffing requirements was not spelled out, however. This ambiguity, coupled with contentions that volunteers sometimes failed to provide

acceptable care, would contribute to later controversy over staffing. In addition there was the troublesome fact that volunteers for the most part failed to materialize in the needed numbers, particularly at centers being operated for profit. The issue of parent participation was less complex than staffing ratios, but in some quarters it was more sensitive and potentially explosive. Demands for a greater voice for the poor, minority groups and local citizens generally in the government programs affecting them had been a central element in the protests and demonstrations of the 1960's. Existing government agencies often were considered insensitive, or even inimical, to the interests of those who were to be served by welfare and compensatory programs, and many of the strategists in the War on Poverty felt strongly that programs should not be designed and administered from on high. At the same time, there was often resistance to such "community involvement" from state and city officials and politicians, who asserted that they - not local activists or other neighborhood leaders - should be recognized as the rightful spokesmen for their communities. Also, some union leaders, program specialists and others were reluctant to see authority shared with people they said lacked expertise. In part these were sincere arguments over philosophies of government and public policy; in part they were struggles for power. Regardless of the mixtures of motives, the questions were invariably touchy.

Sugarman and others with backgrounds in Head Start had been through a debate on the issue in 1965 and generally favored a major role for parents, both as advisors and decision makers. Sugarman himself wanted groups to have a veto over selection of program directors and decisions on important elements in the curriculum. Representatives from

the Labor Department's Manpower Administration did not favor such a strong role for parent groups, however, and DHEW's Children's Bureau also had some reservations. As a result, the FIDCR standards are a compromise; parent advisory committees must be created for any agency providing day care for 40 or more children, and the committee must be allowed to participate in such matters as staff selection and policy information, but they are not given veto power.

On the health care issue, two questions occupied the panel: How far was it desirable for the standards to go in requiring medical or other health services, and under existing statutory authority how far were the standards permitted to go in requiring such services?

As to the first point, the argument against requiring extensive medical services was presented chiefly by the Department of Labor, which spoke from the perspective of its Work Incentive Program (WIN). The WIN program was charged with moving as many people as possible off welfare and into jobs or vocational training; inevitably, the higher the cost of caring for a single child, the fewer children that could be covered by a given appropriation and, in turn, the fewer parents whose child-care needs could be met and who thus would be free to participate in the WIN program. For Sugarman and others in the Children's Bureau, the fact that participation in manpower programs was being made virtually mandatory for many parents placed the federal government under an increased obligation to provide top quality day care for the children of those parents. Also, Sugarman and others saw the FIDCR at least in part as a statement of goals rather than as a set of rigidly binding rules, and they believed the federal government could be counted on to play an increasingly active role in the financing of quality day care. Thus, while subsequent events were to prove some of their assumptions overly optimistic, the central question

for them at the time was not how medical and other standards could be held down in the interest of maximizing the coverage, but how comprehensive the standards could be made in the interest of future generations.

The real question, as Sugarman and his staff saw it, was how far they had a legal mandate to go in setting health standards. There was general agreement that medical, dental, and other similar examinations and evaluations could be required on a regular basis. There was also general agreement that the standards should go as far as possible to assure follow-through on examinations. Otherwise, time and money would be spent identifying problems, but the indicated medical or dental treatment might well not be provided. Attorneys for DHEW's Social Rehabilitation Services expressed the view that the panel lacked authority to require provision of remedial health services. Secretary Cohen, who ultimately was consulted on this question, according to Sugarman, basically agreed: Legally follow-up treatment of a remedial nature could be required only where the medical problem directly affected a child's ability to benefit from a day care program. In final form the FIDCR requires systematic health examinations and extensive efforts to support parents and others in assuring follow-through, but in general it stops short of requiring day care providers themselves to supply medical and related treatment of a remedial nature.

Regarding delivery mechanisms, Sugarman says there was extensive discussion about whether it would be better for the federal government to deal directly with local day care providers, as was being done in the Head Start programs, or instead to work through state agencies. As noted by Gertrude Hoffman, who was involved with the FIDCR as a day care specialist at the Children's Bureau in 1968 and now is on the staff of HEW's

Public Services Administration, the law specified that Title IV programs would be funded through Social Services and would require a single state agency. Nonetheless, some of those involved believe the Headstart system still influenced the shaping of the FIDCR standards, and thus later experience with them. Hoffman, for example, is convinced Sugarman's experience at Headstart led him to count on a close relationship with the providers to iron out problems arising from the so-called vagueness of the FIDCR.[12] Sugarman himself says he believed explanations and interpretations could be provided without difficulty by federal officials. Hoffman feels Sugarman's assumption of such close relationships between Washington and care providers was unrealistic: given the enormous size of the day CARE program nationwide, it was mandatory that it be administered through state agencies even if the law had allowed a direct federal-provider arrangement. Be that as it may, Sugarman in retrospect is persuaded that the remoteness of the adminstrative system from care providers has hampered application of the FIDCR as he originally envisioned it.

The question of costs was dealt with in broad terms and the drafters understood that there would be an intimate relationship between the probable expense involved in providing a particular service contemplated for inclusion in the standards and the feasability of such a requirement. Yet participants agree that relatively little detailed work was done to project costs for specific provisions of the FIDCR. There were two basic reasons for this: First, many of those actually involved with the drafting were confident they had sufficient understanding of potential cost factors as a result of their experience with the Head Start program; second and more important, it was not considered appropriate to constrict the nature and quality of the FIDCR at that stage for reasons of economy.

To be sure, the Office of the Budget and, to a lesser extent, the Manpower Administration of the Labor Department were continually concerned that raising the requirements for quality would increase the over-all cost of day care and thus reduce both the number of children who could be served and the potenial for reducing the unwelcome burden of welfare, but this perspective was not dominant in the drafting of the FIDCR.

Rather, the prevailing view was that details of costing should properly be left to the future. Thus while Sugarman and his associates relied on their experience with Head Start to keep the probable costs of meeting the standards within what they felt would be the general parameters of future financial support for the program, they also had several reasons for their belief that decisions should not be heavily influenced by precise costing projections. To begin with, there was the conviction that the federal government over time would become the financial guarantor of high quality day care; thus, Sugarman and others reasoned, if local providers found the cost of meeting the FIDCR too high and refused to serve federally funded children, the government would step in and organize new day care programs that would - with federal funds - provide the level of care that the FIDCR drafters considered necessary and desirable. Equally important, the FIDCR was seen as a pioneering effort, a crucial first step that would profoundly influence the nature of day care in the future. While it was literally true that the standards would have the force of law once they had been adopted and published in the Federal Register, Sugarman and those who worked closely with him saw the FIDCR as being also a set of goal standards towards which providers would work during the years ahead. Accordingly, it was believed that specific problems of cost - like specific problems of monitoring and enforcement - should be left to the future. For the present, the primary task was thought to be development of

reasonable standards that would assure quality day care. Once that fundemental and indispensible task had been accomplished, it was felt, the details could be worked out as experience and changing circumstances might dictate.

When a first draft of the FIDCR was at last completed, it was very widely distributed for comment and suggestions, according to Sugarman, Bruce and others. State officials, field workers, parent and welfare recipient organizations, advocacy groups, private and non-profit institutions, and all relevant elements in the federal government were consulted. Regional and national-level meetings were held. A variety of memos, letters and commentaries were prepared. In the course of this effort most of the problems, points of view and areas of disagreement or differing emphasis that had been identified during the course of preparing the first draft again came to the surface. It appears, however, the final form of the FIDCR was not substantially different from the first draft. In the years that followed, some of the assumptions underlying parts of the FIDCR would prove overly optimistic, perceptions of the problems associated with day care would develop further, and there would be substantial changes in the economic and political climate — all of which would militate in favor of revising the federal standards. Taken as a product of its time, however, the 1968 FIDCR suggest that its drafters grasped the essence of the day care problem in the United States and forged a suprisningly durable consensus of opinion about an exceedingly difficult subject.

State Licensing Codes

Adoption of the FIDCR was a major step in the development of the federal government's concern for the quality and quantity of day care available in the United States. As with all things evoluntionary, however, it was not the final step.

No sooner had the FIDCR been completed in September, 1968, than day care specialists in the Office of Child Development and elsewhere turned their attention to state licensing codes. The work was continurd and expanded under the direction of Dr. Edward Zigler, who became director of OCD in June, 1970. The goal: Analyze and then reform what has been perhaps the most chaotic and least understood element in government involvement with day care.

Historically, state licensing codes had originated almost 100 years earlier in response to the discovery that many institutions and juvenile care facilities subjected children to truly desperate and dangerous conditions. For example, according to a 1972 paper prepared under the auspices of the Day Care and Child Development Council of Ame:ica, in 1868 the Ward's Island Foundling Hospital of New York received 1,527 babies during an 11 month period, and within the first year all but 80 had died; the state alms house in the Tewksbury, Massachusetts admitted 153 motherless infants in the five year period ending in 1873 and all but 15 died. As this and similar evidence of the mistreatment of older children multiplied - often involving state-supported institutions as well as proprietary facilities - there came into being a movement for state licensing. Pennsylvania acted first, in 1885. Other states, acting over a period of many years and responding to widely varying conditions, followed suit.[13]

From this beginning, licensing codes were conceived as vehicles for establishing minimal levels of care that providers must maintain in order to assure the physical and mental protection of all children in American society. The codes were not meant to describe society's goals, nor to assure high quality care. They were a safety net, an assertion of conditions below which the community would not permit children to be subjected, whether in public facilities or private. The distinction between what was undesirable or unacceptable for some children under some circumstances and what was intolerable for all children under all circumstances would become an important factor in the debates and decisions on licensing in the early 1970's.

As the decade of the 1960's ended and the 1970's began, the federal government seemed on the verge of making another quantum leap forward in its provision of support for day care. While President Johnson had left office, and the Republican Administration of President Richard M. Nixon had been elected, the change was attributed primarily to opposition to Johnson's Vietnam war policies within his own party: There seemed reason to hope that social problems, particulary those of the poor and disadvantaged, would continue to receive high priority in the new administration. In August, 1969, President Nixon delivered a major speech on welfare reform in which he unveiled what he called "a family Assistance plan" that included expansion of day care as a key element in the reduction of unemployment. At about the same time, Senator Walter Mondale of Minnesota, Rep. John Brademas of Indiana and other Democrats in Congress - joined at some points by a number of Republicans - were developing even more detailed legislation that culminated in the Comprehensive Child Development Act introduced in 1971. To day care specialists in the Office of Child

Development and other organizations, it appeared that a period of rapid growth was ahead.

In this context, it was apparent from several perspectives that something needed to be done about state licensing codes. Under the Social Security Act, as amended in 1962, federal aid authorized by Title IV B could go only to facilities that met state licensing standards, and it was assumed the same requirement would pertain to any future support programs. The difficulty was that, from the vantage point of Washington at least, state licensing codes as a whole were something of a nightmare: while state codes in some form were virtually universal, some states had codes so strict and elaborate that they raised provider costs prohibitively; others had codes so lax that child care specialists considered them wholly inadequate to guarantee even a bare minimum of protection for children. Also, many of the codes constituted jungles of confusing, even contradictory requirements and red tape that had a tendency to discourage would-be care providers and thus reduce the amount of care available nationwide. Finally, if the government was going to increase its support of day care, some measure of the cost implication of state licensing codes was needed. For all of these reasons, it seemed clear to a great variety of people - in the federal government, in private agencies, in advocacy groups - that the morass of state codes should be surveyed and analyzed, and that the federal government should prepare a model which all states would be encouraged to adopt.[14]

Unfortunately, what was not clear turned out to be as important as what was clear. As had been seen in the preparation of the FIDCR and earlier, important differences existed in the preception of what purpose day care should serve, what it should consist of, and what the federal

government's role should be, particularly in the all-important area of mandatory standards. These differences had been muffled during deliberations on the FIDCR, but they were to emerge in clear, strident form during development of a model licensing code -- reflecting and also shaping perceptions of why such a code was necessary.

The earliest work in this period was carried out by Sam Granato, chief of the day care office in the OCD, and by Edna Hughes, a standards and regulations specialist on the Children's Bureau staff, who had begun their Labors under Sugarman and continued under Zigler.[15] They were concerned about what would happen if the federal government pressed ahead with expansion of day care while the state licensing codes remained in a chaotic condition. Accordingly, work was started on an analysis of the existing laws with preparation of a model code as the ultimate goal. The size of the task dictated a major effort and Congressional support was enlisted. At the time, the House Ways and Means Committee was holding hearings on the Nixon Adminstration's Family Assistance Plan bill, which was offered as an amendment to the Social Security Act, and thus came under the Ways and Means committee's jurisdiction. Chairman Wilbur Mills, in part as a result of efforts by Granato's staff, made a formal request on March 11, 1970 for a study of state codes and preparation of recommendations by the DHEW:

> Your committee believes that well-designed child care programs, in addition to benefiting parents by freeing them to work, can also be of great benefit to the child and can help to break the cycle of poverty. Child care for the pre-school child should not be merely custodial care, but should provide for child development, through the provision of health, educational and other necessary services.
>
> However, your committee is also concerned that unreasonable Federal, State and local standards and licensing requirements have interfered with the provision of essential child care

> services, and may prove a barrier to the development and provision of the services essential to the success of the family assistance plan. Therefore, the Secretary of Health, Education and Welfare is requested to furnish the committee by February 1, 1971, a report and recommendations based on a thorough review, in cooperation with State and local officials of existing federal standards as well as State and local licensing requirements which are essential both to protecting the child and assuring an appropriate program for him. 16

Mills' statement expresses the twin concerns that motivated those who had begun the development of a model state licensing code; assuring that the minimum level of permissable care incorporated at least the essentials of what was considered "quality" day care (as distinguished from unwholesome "warehousing"), but also avoiding unnecessary or confusing requirements that would slow down the development of child care delivery systems. Only after a great deal of time and money had been spent would it be discovered that, at least in the political and policy climate that came to exist, those two goals could not be harmonized in a way that commanded broad support.

The immediate response to Mills' request for an assessment and recommendations was a massive study commissioned and carried out by CONSERCO, a Seattle consulting firm. Beginning in the fall of 1970, the views, experience, and expertise of an estimated 10,000 persons were considered. State and local leaders, federal experts, public officials were consulted; attorneys, legislators, fire safety engineers, fire marshals, insurance representatives, sanitation engineers, pediatricians and public health experts, city planners, licensing program administrators, child development specialists, day care center operators, and parents were among those involved.[17] At one point in October, 1971, representatives of minority groups asserted that they had not been adequately represented; as a part

of the effort to assure comprehensive, broad-based consideration of the codes problem, DHEW provided funds for these groups to study the work of the existing task forces, develop critiques, and send representatives to the final drafting sessions.

According to a statement in 1972 by Zigler, the work of the task force was considered "important not only in relationship to the Administration's plans for the expansion of day care programs expected to be authorized through new child care legislation, but also because they will have an impact on all children participating in licensed day care programs, both in center and family day care home centers." Zigler said progress on the project was being reviewed on a monthly basis by Secretary of Health, Education and Welfare, Eliot Richardson.[18]

As the project moved forward, those responsible for directing it clearly understood that their goal was to design an effective safety net and at the same time to remove all unnecessary barriers at the state level to swift expansion of day care services. The difference between the purpose of state licensing codes and the purpose of the FIDCR — the difference between requirements that should apply to all children in all circumstances and those intended to assure particular kinds of treatment for children to whom the federal government had undertaken special, additional responsiblities — was explicitly stated. In a May 24, 1971 statement of objectives and justifications for the task force project, OCD stressed the importance of expediting the licensing process as a means of facilitating the expansion of day care for all children.

> Preliminary findings (of the study) ... indicate that licensing codes and processes often inhibit development of new facilities. For example, most states require the completion of approximately 20 to 30 major work tasks by any applicant in the licensing process, assuming that all regulations are met

> on the initial attempt and that further inspections are not necessary. When work tasks of state and local government officials are added to those of the applicant the total numbers approximately 100 to 150. Futhermore, no two states, cities or counties follow the same licensing procedures or interpret regulations in the same manner ...
>
> Current Administration emphasis on welfare reform.... and the introduction of a number of Early Childhood Bills aimed at the rapid expansion of the Day Care Services ... require the elimination of factors such as cumbersome or non-uniform codes which may delay the provision of services or cause excessive costs in the development of new facilities. 19

And CONSERCO, in a May 1972 statement providing OCD's answers to questions frequently asked about the licensing code project, carefully spelled out the differences between such a code and the FIDCR:

> The Office of Child Development has developed two sets of day care standards for two different purposes. The model day care licensing standards are being developed to establish the minimum level of care which must be maintained to assure the physical and mental protection of all children ... These standards are not intended to describe a desirable program of day care services for children, but rather a level below which the community will not permit care to be provided, even if the parents were willing to accept a lower level of care for their children .....
>
> *The Federal Interagency Day Care Requirements have been established to assure that certain children (for whom the federal government has assumed some responsibility) are provided with opportunities to develop to their fullest potential. 20

The final draft of the model code was presented May 26, 1972 in a 213 page report. It was submitted as a consensus of scores of meetings, workshops and discussions as well as formal task force sessions in many parts of the country with literally hundreds of organizations - Federal, State and local government agencies; professional, religious, charitable and academic organizations; advocacy groups and individual specialists. The final draft reflected some 200 written critiques of the first draft.

In view of all this effort to achieve consensus agreement on the provisions of the model code presented by the task force, and considering the close attention high-level OCD and DHEW officials said they were paying to the development of the task force draft, one might have expected the federal government to move swiftly and smoothly to the promulagation of a model code that would command broad support and respect. As it happened, that was not to be the case. Instead, the final stages of the process were to become steeped in suspicion, resentment, and a bitterness that lived on to infect other deliberations on day care standards for at least several years.

The model code officially promulgated by DHEW more than a year after the task force had finished its work, on June 29, 1973, was not the code submitted by the task force. Rather, it was a code written by a relatively small team of federal personnel, mostly from OCD, under the direction of Zigler and Saul Rosoff, assistant director of OCD. According to Zigler, the official DHEW model code was substantially the same as the CONSERCO draft — 90 percent the same, he said recently, and the changes were not significant. Many of those who worked on the task force model felt quite differently, however. Justifiably or not, they believed DHEW had spurned the consensus they had worked to achieve and had abandoned many of the standards they had sought to establish. A technical comparison of the two model codes is beyond the scope of this paper, and is perhaps unnecessary because in this case it was the perceptions of those involved, rather than any objective "reality", that shaped events.

What caused the sense of betrayal and the schism it produced? To a considerable extent, the trouble may have had little direct connection with the state licensing code issue itself but instead may have been rooted in the general souring of relations between the Nixon White House and many of those committed to the expansion and improvement of day care. In 1969 it had been possible for day care specialists both in and out of government to believe that the Nixon Administration would press forward with the work begun under President Johnson; by the summer of 1973, many of these specialists no longer considered that a credible hope. Nixon had vetoed the legislation containing the Family Assistance Plan, it had become clear his Office of Management and Budget was burying revisions to the FIDCR, and at least so far as the White House was concerned there was little interest in pursuing any aspect of day care except the reduction of costs. In such a climate, Zigler, a Yale University child care specialist with a distinguished record of work with the mentally retarded and physically handicapped, may have been an unfortunate man in the middle, appearing to represent an Administration that no longer shared his goals.

Beyond this, there were in fact differences in points of view and emphasis between Zigler and many of those who had worked on the model licensing code drafts by the CONSERCO task force. For one thing, as a matter of tactics in the struggle for quality day care, many of those involved with the task force were inclined to place great emphasis on government standards as potentially powerful levers for compelling improvements in care; their impulse was to make all standards as high as possible because they assumed there would be slippage and only partial compliance in any case. If standards were set relatively low, so the

reasoning went, the inevitable slippage would result in poorer care than if the standards were set relatively high. Also, high standards could be used by local groups and parents to struggle for better performance on the part of care-givers. While not necessarily denying the logic of this approach, Zigler and those around him seem to have approached the problem in a significantly different way: as he surveyed the day care situtation in the early 1970's, Zigler was forcefully struck by the magnitude of the unmet need, the fact that demand for day care seemed to be far larger than had been expected in 1968 when the FIDCR was drafted. And, where many of the provisions drafted by the model code task force suggested emphasis on center-based day care, Zigler was struck by the fact that the vast majority of children who got any day care at all received it in home-centered environments. As a result of this view, Zigler attached great importance to avoiding unnecessarily stringent requirements that might raise costs and thereby reduce the amount of day care available or discourage potential care-givers from entering the field.

Some insight into how these different points of view shaded the drafting of model state codes can be obtained even from a cursory comparison of some of the medical provisions in the task force draft with the provisions in the final DHEW code. Broadly speaking, the task force version is more detailed in its requirements, insistent on higher proportions of medically-trained staff, and more demanding with respect to formal planning and record keeping. The model approved by Zigler's office, on the other hand, takes what was described as a more "practical" and "workable" approach — requiring what it considered basic protection of children's health, but not insisting on detailed attention to such things as mental and dental health problems, which seemed less vital. It was not that Zigler, Rosoff, and

their aides considered these things unimportant in the care of children, but they did believe many parents, not burdened by poverty or other identifiable handicaps, could afford to deal with such problems in their own children. Thus it did not seem necessary from the point of view of most children to write the cost of all-embracing requirements into the licensing codes -- especially since to do so might mean some children would get no supervised day care at all. Better to peg the state code requirements a little lower and deal with the children with special needs in the FIDCR, Zigler reasoned.

There is one more element in the dispute: Throughout the Nixon Adminstration as a whole during this period there was increasing emphasis on cost-effectiveness in the approach to social programs. Zigler and his associates understandably resent any suggestion that they put budget-cutting ahead of the well-being of children, but the spending priorities of the Nixon White House influenced the perception critics had of the final DHEW model licensing code.

In a harmonious and trusting atmosphere, it seems likely that the specific differences between the provisions of the task force code and the version drafted in Zigler's office could have been compromised without delay or rancor. By the summer of 1973, however, no such atmosphere existed and the result was anger and further bitterness.

1972 Revisons of the FIDCR

The history of what became of the 1972 proposals for revising the FIDCR is strikingly - though not surprisingly - similar to that of the efforts to develop a model licensing code. The two movements occurred at about the same time, in the same succession of climates, and with similar results. An apparent confluence of interests and perceptions gave rise

to activities that ultimately were stymied by policy disagreements, differing values and perceptions, suspicion and hositility.

For various reasons that turned out to be less than totally compatible, a number of individuals, agencies, and non-governmental groups became interested in revising the interagency day care requirements in the Spring of 1970.[21] To begin with, two years of experience with the FIDCR had demonstrated to OCD and others in DHEW that there was need for assorted adjustments, alterations and clarifications — including some changes that would increase enforcability. Also, as with licensing codes, anticipation of new federal day care legislation stimulated interest in revisions: DHEW wanted a "system" developed that could handle all day care programs - those in being and those likely to be created by Congress - in an integrated, coherent and efficient way; revising the FIDCR was seen by some as a step toward developing such a system. Finally, there was widespread feeling among officials of the Nixon Administration that the FIDCR should be clarified and altered to reflect new research, as well as the new Administration's basic attitudes toward day care.

As part of the process of developing revisons, a conference at Arlie House was staged in 1970 to bring together approximately 1,000 day care administrators, child development specialists, parents and others interested in day care. In his statement opening the conference, Zigler stressed the desire of the OCD to reach beyond the government to gather the views of a wide variety of people. Out of the Arlie House conference came a manual setting forth what Zigler describes as the state of the art of day care at that point, including guidelines on delivery of such things as infant, pre-school, and school-aged care. As a result of this conference, according to Zigler, the OCD went into the revision process with a clearer and broader more specific knowledge of day care than had been possible in

in 1968 when the FIDCR was originally drafted.

When it came to specifics, of course, there were as many views on what should be changed, and how, as there were people involved, but several areas of concern stand out. The most common criticism, both from new officials of the Nixon Administration and those who had been involved with the FIDCR in 1968 was that some of the provisions were vague and insufficiently detailed. Suzanne Woolsey, then a member of the ASPE staff, feels that the imprecision Sugarman had counted on to provide flexibility had instead proved an impediment to making the FIDCR operational over the huge program. Zigler and his staff believed the vagueness of the orignial requirements had turned out to contribute to the difficulty in enforcing them; revisions should make the FIDCR easier to enforce, they argued, and thus were necessary if children were to be protected from harm. The FIDCR's treatment of school-age children, for example, was considered too vague by some. Also, the FIDCR sometimes omitted or glanced over matters that later proved important: The original drafters had felt that infants should not be entrusted to day care centers and so had written virtually no requirements for the quality of such care; as the history of the program developed, however, it was found that parents did in fact entrust infants to group care providers and thus there was a need for covering them with the FIDCR.

Child-staff ratios remained another bone of contention. As in the state licensing code debate, Zigler and his staff were concerned that unnecessarily strict standards would drive up costs and reduce the amount of day care available in the nation. They believed that by changing the definitions of who could be counted as staff for ratio purposes, the ratios could actually be loosened at the same time that care was improved and,

potentially at least, some money was saved. Since in purely arithmetical terms Zigler was proposing to dilute the ratios it is not surprising that some advocates of strict standards became suspicious, but in fact the ratios were at least not weakened and in most cases probably were strengthened. The key to this confusing issue was the volunteer: Sugarman and other drafters of the original FIDCR, drawing on their experience with Head Start and similar programs, had expected volunteers to become dependable, sustaining elements in day care staffing, but this did not prove to be the case: over-all, the number of volunteers was far smaller than expected and many of those who did come were not consistent in their attendance. Thus, by proposing that volunteers could no longer be counted for ratio purposes, Zigler was able to dilute the ratios specified in the 1968 FIDCR and still increase the actual number of dependable care-givers required.

Zigler also propsed to include in the FIDCR for the first time specific staffing ratios for infants. Where the FIDCR had left the matter primarily to state licensing codes and declared only that day care should equal a mother's home care, Zigler prescribed a ratio of one adult to three infants.

Much the same argument developed over the staff qualifications and who could or should be counted as staff for purposes of meeting FIDCR ratio requirements. The requirements for training were not clearly spelled out in the FIDCR and that ambiguity added to the issue. Again, the question was what the trade-off should be between demands for quality and those for efficient use of limited funds. If too little in the way of training and formal qualifications was insisted upon, children might suffer or fail to obtain the full benefit of the care program; conversely, if the training requirements were set higher than necessary, funds would be spent without

commensurate return in benefits to the children. As Sugarman and others acknowledge, the original ratio and qualification decisions had been based on the educated guesses of experienced people. Much the same appears to have been true of the proposed revisions, though Zigler and his staff felt that experience gained since 1968 gave them a stronger basis for their judgements. Dr. Donald Cohen, then Special Assistant to the Director of OCD, Dr. Zigler, says the revisions as they were finally proposed had been produced by "an inhouse, multidiciplinary group of experts" - not derived from scientific studies and tests to pin-point the optimum tradeoffs. Further complicating the problem of reaching a consensus on staffing was the conviction among some of those who defended the original requirements that the issue had risen to prominence chiefly because operators of day care programs had grown strong enough to make their objections to higher costs felt in the government; to some, this suggested an undesirable intrusion of financial considerations into questions of child welfare.

Difficulties with setting the proper role for parents and communities in the running of day care programs had been encountered when the FIDCR was first drafted and these questions were a continuing source of dispute when the revison process began. Some minority and advocacy groups, including the Black Child Development Institute, wanted a stronger role for parents in administrative decision making, but many in OCD and other government agencies were even less sympathetic than they had been in the past to such demands. Granato, for example, shared most of the values and perspectives of the War on Poverty era, yet he had come to feel that most of those who demanded parent control were less interested in child care programs than in political community. It was power, not children they were interested in," he says.

This shift among some of the Johnson Administration veterans, coupled with a general fading of concern for participatory democracy, as it had been called, led to recommendations for curbing, not increasing parental influence at the administrative level.

One point of particular importance to Zigler and Cohen was what they saw as the FIDCR's failure to focus adequately on school-age children. This group accounts for fully-two-thirds of the nation's need for day care, according to Zigler, and the experience many of the original FIDCR drafters had had with Head Start appeared to have led them to see day care too much in terms of service to pre-school children. The essence of good day care for older children, Zigler felt, was adult staff members who could provide such children with support when that was called for but also permit the children to take an active role in planning and directing their own activities in so far as the children were able. In an effort to increase the FIDCR's concern with children of this age group, Zigler appointed a task force to deal specifically with the subject.

The controversies that would develop by 1972, when revision proposals reached their final form, were not apparent at the beginning. It was Sugarman himself who convened the Federal Panel on Early Childhood in April of 1970 to consider revising the FIDCR. In addition to making assorted adjustments, the panel was to consider what changes in the requirments might be necessary to accomodate provisions of the Family Assistance Plan, which was then pending in Congress. In June, agencies represented on the panel were asked to name delegates for a subcommittee or working group that was to take up the revisions task. The subcommittee appears to have met several times, in July, August and November of 1970, but then to have become inactive until August of 1971. This hiatus was occasioned in

large part by a changing of the guard at OCD: Sugarman, who had been acting chief of the Children's Bureau and was serving as acting director of OCD in the Spring of 1970 left the federal government in July of that year. He was replaced by Dr. Zigler, with Rosoff as his deputy. An extensive reorganization of the OCD followed.

It appears that during this period two groups worked on revisions of the FIDCR. One was the subcommittee of the Panel on Early Childhood; headed by Myrtle Wolff, chief of the standards division of the Children's Bureau, the subcommittee collected field information on problem areas in administering the FIDCR and combining this with the views of its members, prepared a draft of proposed revisions. While this was going on, a second OCD group under the direction of Granato was also drafting revisons based on the views of staff specialists and others. It was not until August, 1971 that the subcommittee came togerther with Granato and others from the second group; indeed at least some members of the subcommittee had not known of the other group's existence until they learned that copies of its draft proposal for revisions were being circulated for comment. As the subcommittee began meeting with Granato and Dr. Zigler it soon became apparent that a major element in the Administration's approach to standard setting would involve reconciling care requirments with budget allottments proposed by the Office of Management and Budget. According to one account of these deliberations, the subcommittee was told that while DHEW was proposing day care based on expenditure of $1,600 per child per year OMB wanted outlays limited to $800 per child per year. At this point, the battle over the revisions began.

Almost immediately, the situation became polarized, not only for the panel and its subcommittee but also for others in the government and

and the interested non-government groups. On one side were Dr. Zigler and others who believed the FIDCR required provision of remedial, compensatory and supportive services (health, education, psychological services, etc.) too broadly; by targetting these services only where they were needed and could not be obtained in other ways, Zigler felt, federal funds might be stretched further without reducing the quality of care provided. For a great many children, quality care does not have to be compensatory care, Zigler believed. He argued that realistic standards should be devised to fit realistic budget expectations. Also, it was contended, research published after the formulation of the FIDCR in 1968 suggested that, while helpful for children with severe problems pre-school training may not be necessary or desirable for all children. Zigler's feelings on this were reflected in testimony before the Senate Finance Committee in 1971: "What the Administration's child care program envisions is helping those children whose mothers must work, "plus other children who have enormous problems" ... I would deter the nation from spending vast sums for all children for preschool training . . . "the great value of preschool training has been oversold."[22]

Reasonable and sensible as this point of view may have seemed to Administration officials, it was regarded by many as an indirect attack on comprehensive quality care. As perceived by those at the opposite pole, the proposed revisions appeared to water down the original FIDCR standards, to sacrifice care levels to budgetary expendiency, and to reflect unduly the interests of proprietary care providers, all to the long-range detriment of children and ultimately of society. This point of view was succinctly expressed in a September 1971 memo by Matthew Huxley, chief of the standards development branch of the National Institute of Mental Health and a partici-

pant in the activites of the Federal Panel on Early Childhood:

> The increasing polarization pits those who consider FAP's day care provisions merely a facilitating means to the end of mounting an effective national (re)training program for adults on relief, against those who believe that any national day care program must be educational and developmental in nature. To the latter group, the FAP day care proposals amount to no more than a "warehousing" of children; a day care program which would do nothing but assure that this cohort of children will, in their turn, become scoial incompetents needing, when they become adults, the same (re)training programs as their parents did before them ... any program which sequesters children in a restricted environment without offering them psychological, social and learning experiences reduces their learning capacities and so will hinder them during their school years ... 23

In the abstract, the two poles are not necessarily irreconcilable, but in the climate of 1972 it would have taken a great deal of work and reassurance to bring them together. As it turned out, very little such effort was made. President Nixon's vetoing in 1971 of the Child Development legislation that would have expanded day care, coupled with his specific attack on the day care proposals, had already convinced many of those involved with day care that the Administration's commitment to it had never been genuine. This suspicion, coupled with the way revisions of the FIDCR had been handled, created a symbolic issue; loyality to the FIDCR became a test of loyalty to the principle of quality day care. Faced with the opposition that resulted, the Administration could not hope to achieve broad-based support for its revisions, which of course had to be adopted by Congress if they were to become effective.

Even if the climate in Congress had been favorable, which it patently was not, DHEW itself was divided on the revisions even though they were ultimately approved by Secretary Richardson. Whereas the FIDCR had never been strictly enforced and thus were not being complied with by most providers,

the proposed revisons carried with them the implication that strict enforcement might have to begin. This would mean making substantial new demands on providers and - most important to SRS and others in DHEW who would be responsible - substantial new demands for federal monitoring and compliance efforts. According to Granato, Woolsey and others, SRS thus opposed the revisions, both on grounds of excessive cost and because of the requirement for a massive new enforcement apparatus.

As it turned out, the revisions were never sent to Congress but instead were quietly buried at OMB. In addition to opposition from inside DHEW, there were several other reasons why the Administration chose not to press them; there was concern that Democrats and other supporters of expanding day care who had been angered by the Nixon veto might use the revision proposals as a vehicle for enacting even higher, more costly standards; also, in the increasingly bitter and embattled climate of the time, there was reluctance to give Democrats an opportunity to hold hearings that might be politically harmful to the Administration. The debate on FIDCR standards, thorny as it was in its own right, had been overwhelmed by larger events.

Enactment of Title XX

If the failure to revise the FIDCR in 1972 represented a stalemate, then enactment of legislation adding Title XX to the Social Security Act in 1974 represented a decision to break the deadlock and move foreward again even though most of the important conflicts remained unresolved and neither side was strong enough to prevail. Title XX was a compromise. It was also an unusual agreement to take up the struggle again at a later time - a time when each side hoped it might have strengthened itself decisively.

For the advocacy groups, non-government child care specialists, and others who had seen preservation of the FIDCR as a symbol of commitment to quality day care, Title XX contained a significant advance. For the first time in a federal statute, compliance with the FIDCR was made an absolute condition for receipt of Federal aid by day care centers. In strict point of legal fact, the 1968 requirements had always been mandatory and had always carried the force of law; failure to meet the standards could have resulted in a cut-off of federal funds, a refusal to compensate providers for their expenses upon a finding of non-compliance by DHEW auditors. As a practical reality, however, enforcement of the FIDCR was widely believed, however inaccurately, to be technically a compliance matter, not a federal financial participation or FFP issue. As explained by the General Counsel's office, the chief differences between a compliance matter and an FFP matter have to do with procedures and the nature of the action that the federal government can take if a recipient of funds is found not to have complied with federal requirements. In a compliance proceeding, the federal administrator must hold a hearing before terminating funds, may grant delays while the fund recipient seeks to come into compliance with the rules; in the end, future payments can be cut off but there is no possiblity of recovering funds already released by the government. In an FFP proceeding, on the other hand, the federal administrator is not required to hold a hearing or to consider requests for delays; more important, the federal government can not only refuse to reimburse a state for money it has paid out to recipients who are not in compliance with federal requirements, but can also order a state to refund to Washington money it has already received. In an FFP proceeding, therefore, there is substantially less room for discretionary or political manuever. Many in DHEW still believe the FIDCR did not

become an FPP issue until the passage of Title XX and most of those who understood the legal realities all along had acted as though they did not exist. The states had been convinced Washington would not try to enforce the FIDCR - particulary since compliance enforcement is extremely complex and time-consuming - and those in DHEW who would have been responsible for the enormous task of monitoring and enforcement had not been eager to take on such a burden. As a result, the FIDCR had not been enforced. Dispelling once and for all the notion that the FIDCR was merely a compliance issue Title XX threatened to change all that, and at a rattling fast pace too. Title XX became law on Januray 1, 1975 and the deadline for compliance or loss of funds was October 1, 1975.

The advocacy groups, labor unions and others who had seen preservation of the FIDCR and opposition to the 1972 proposed revisions as symbols of commitment to quality day care had made statutory adoption of the FIDCR the sine qua non of their 1974-1975 agenda. They had formed a coalition and its representatives met with officials of DHEW to press this point. DHEW agreed, and the eventual result was incorporation of the FIDCR into Title XX as a condition of receiving federal aid. But the coalition's victory had a price.

As a concession to those who contended there was no empirical evidence that the education component of day care produced benefits commensurate with its costs, Title XX made the educational services provisions advisory, not mandatory; the Secretary of DHEW was to recommend them to the states, but he could no longer require compliance with them. Similarly, in a move that closely paralleled the thinking of Zigler and Dr. Cohen in 1972, Title XX revised the FIDCR staffing ratios with regard to school-age children and infants. In the case of infants, it directed the Secretary to establish

ratios where the FIDCR had not been explicit, and in the case of school-age children it increased the number who could be cared for by a single adult. (For children six to nine years of age, the ratio became 15 children to one adult instead of 10 to 1, and for children ten to fourteen years of age the ratio grew from 10 to 1 to 20 to 1.) Title XX also gave the Secretary authority to review and modify staffing standards and requirements in several other specific areas.

Most important for all concerned, however, the provisions of Title XX gave the Secretary of HEW sweeping power to modify the FIDCR by promulgating new regulations, after first submitting to Congress a study of the "appropriateness" of the FIDCR standards and then giving Congress 90 days in which to review the report and take any action it might think proper. Significantly, the due date for the appropriateness study - the date which determined the earliest point at which the Secretary would be permitted to change the FIDCR - was fixed at July 1, 1977.

According to Suzanne Woolsey, who was involved as an ASPE staff member when it happened, the agreement on the specific changes in staffing requirements came about almost by accident as a by-product of the negotiations on incorporating the FIDCR. Representatives of the advocacy group had cited a pending bill sponsored by Senator Mondale and Rep. James Corman (D. -Calif.) as a model for what they wanted DHEW to embrace with respect to the FIDCR. The staffing provisions were a little-noticed part of the bill and, according to Woolsey, they were incorporated into Title XX along with the FIDCR when DHEW agreed to accept the coalition's model. After the compromise had been reached, representatives of the AFL-CIO and others reopened the discussions to insist on lowering the required staffing ratios for infants. As a result, Title XX authorized the Secretary to establish staffing ratios for infants but also incorporated the provisions for the appropriateness study.

This interplay between DHEW and the advocacy and constituent groups concerned with day care may indeed have been the vehicle by which Title XX reached its final form, but the section mandating the appropriateness study and setting the deadline for July 1, 1977 reflected a much broader factoring out of the elements in the day care struggle. On the one hand it tacitly recognized that there was no empirical research to refute those who questioned whether the FIDCR's precise provisions were in fact exactly what they should have been to optimize either funding levels or benefits for children. Also, it acknowledged that as a general rule the details of a program, the particular elements of its rules and regulations, are best left to the executive branch instead of to the less flexible and less adaptable legislative branch; thus the Secretary's power to revise regulations were specifically recognized. At the same time, the arrangement took cognizance of the widespread suspicion among day care supporters in Congress and among the advocacy groups that the Nixon Administration was not truly committed to quality day care and was instead seeking opportunities to weaken the existing program. Accordingly, Title XX specified that the Secretary should not be free to alter the FIDCR until after the 1976 elections, at which time each side no doubt hoped it would have gained the power to control decisions on the subject.

So far as the appropriateness study provisions were concerned, Title XX created a situation of at least temporary stability. The same cannot be said of the October 1, 1975 deadline for compliance with the modified FIDCR. Non-compliance was the rule, not the exception throughout the country. If the deadline were not altered, the result might well be massive withholding of federal funds and large-scale collapse of day care services. Congress, faced with the practical impossibility of insis-

ting on the Title XX timetable, agreed to put off the deadline. As a result, a resolution of the long and winding controversy over federal day care requirements was deferred until 1977, when the realignment of power envisioned in Title XX could change the outcome.

Aftermath

Passage of Title XX created a period of respite from the public manuevering and struggle over the FIDCR, but the basic controversy over national day care policy - what it should consist of, who it should be aimed at, what its primary purposes should be and how it should be measured and assessed - has continued in other forms. Congressional suporters of expanded day care have pressed and sometimes passed new legislation, though none of it thus far has completed the legislative course to signature by the President. There are no signs that such efforts will abate.

With regard to the appropriateness study, it has begun to take on the aspect of the earlier battlefields, only in less conspicuous form. Many officials and child care specialists in DHEW see it as another opportunity to inject what they consider realistic constraints and modifications into federal day care programs, making them more cost-effective and more manageable without reducing service to children. Among the advocacy groups, many non-governmental day care organizations, minority groups and their allies in Congress, on the other hand, the suspicion and bitterness of earlier years persists. How can the appropriateness of the FIDCR standard be tested, they ask, when the FIDCR has never been applied? Is not the study just one more attempt to weaken and cripple a program that the Administration fundamentally has little sympathy for? The mistrust of the motives underlying the study has led some advocacy groups to withhold

cooperation from at least some parts of the project and, barring changes, will influence the reception of the report in Congress.

In the end, there is a rueful pattern of circularity. The impulse to care for children, seemingly so natural and simple in its inception, seems to lead recurrently into bogs and thickets of unimagined and unmanageable complexity.

FOOTNOTES

1. Margaret O'Brien Stienfels, Who's Minding the Children? (New York: Simon and Schuster, 1973), p. 36

2. Steinfels, op. cit., p. 66

3. "Planning Services for Children of Employed Mothers" report of Interdepartmental Subcommittee on Children and Youth. Women's Bureau, U.S. Department of Labor (May 1953), p. 8

4. "The Economic Role Of Women." Economic Report of the President, 1973. (Washington: Women's Bureau, Employment Standards Administration, Department of Labor, 1973), p. 91

5. Arthur C. Emlen and Joseph B. Perry, Jr. "Child Care Arrangements", p. 106 Cite: Steiner (1970)

6. S. 2388 Reported by Senate Labor and Public Welfare Committee (S Rept 563) Sept 12, 1967

7. Public Law 90-222 Title V Sec. 521

8. Public Law 90-222 Title V Sec. 522 (a)

9. Public Law 90-222 Title V Sec. 522 (d)

10. This and subsequent material attributed to Jule Sugarman was obtained in a series of interviews held between March and August 1976.

11. This and subsequent material attributed to Preston Bruce was obtained in a series of interviews held between February and August 1976.

12. This and subsequent material attributed to Gertrude Hoffman was obtained in a series of interviews held between February and August 1976.

13. From a draft copy of the introduction to a proposed condensation of the CONSERCO day care licensing study, prepared by the Day Care and Child Development Council.

14. A detailed listing of the individuals, agencies, committees and organizations involved in the day care licensing project can be found in:
"Models for Day Care Licensing, Final Draft, HEW Approval Pending" CONSERCO, May 1972. Appendix B p. 182

15. The descriptions of OCD activity with regard to the model licensing codes are based on interviews with participants, including Sam Granato, and Dollie Lynch Wolverton, OCD project director, during the Spring and Summer of 1976.

16. House Ways and Means Committee Report (Report No. 91-904) March 11, 1970 p. 37

17. "Two Way Street: Day Care Licensing Study Newsletter". CONSERCO. Vol 1, No. 3 May 1972, p. 4

    For a detailed listing of task forces involved in CONSERCO also see: Appendix B in Models for Day Care Licensing, Final Draft, HEW Approval Pending, CONSERCO.

18. "Two Way Street: ..." op. cit., p. 1

19. Paper: Objective for FY 1972, Office of Child Development" May 24, 1972 p. 1

20. "Two Way Street: ..." op. cit., p. 1

21. The descriptions of OCD and other activity with regard to the 1972 proposed revisons of the FIDCR are based on interviews with participants, including Suzanne Woolsey, Dr. Donald Cohen, and Matthew Huxley, during the Spring and Summer of 1976.

22. Steinfels, op. cit., p. 190

23. National Institutes of Mental Health, Standards Development Branch, information paper, Sept. 1971